Lorillard

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FEDERAL EXPRESS

Mr. Jack D. Kelly
The Tobacco Institute
1875 I Street, N.W.
Washington, D. C. 20006

Dear Jack:

Proposed New California Initiative

Reference is made to your memo of November 16th, our very brief discussion of November 28th, your request for comments on the proposal, and the suggestion made to you by others to try to convene a meeting to discuss the proposal prior to the December 13th meeting of the TI Executive Committee.

Putting last things first: Lorillard cannot have a representative at a meeting the week of December 3rd, but will attend one if scheduled for December 10, 11, or 12. But don't hold up on an earlier meeting just because we cannot be there.

It is our overall view, at the moment, that the new proposal can probably not be defeated in its current form - no matter what we might have to spend to oppose it. Accordingly, it may make sense for the Industry to authorize a qualified representative, acting through your office, to negotiate out some of the more unacceptable provisions of the proposal with its proponents, with a view toward having it enacted by the Legislature without Industry opposition. Assuming an Industry consensus could be reached on that course of action, would such an accommodation, in your opinion, be "doable"?

Editorial comments as to specific sections of the proposal are as follows:

Source: https://www.industrydocumentslibrary.ucsf.edu/tobacco/

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§25930: The title has been cleverly changed, and will no doubt cause us problems. If we do have to argue against it we will have a somewhat empty contention that it is the same old proposal with a new name, in a new package - but it's not. Perhaps we should try to negotiate a change of the title.

§25931(c): This part appears to establish the underlying intent of the proposal as dealing with needs of smokers and nonsmokers. We're surprised - frankly we would have expected some bold assertion of nonsmoker's rights. We'd prefer to stay away from the concept of needs.

§25933: The criteria are so vague as to be meaningless or unworkable. Who will (can) make such determinations with the required objectivity that fairness dictates?

§25933 (c)(d): Subsection (c) says may be designated as smoking areas; subsection (d) says shall be designated as no smoking areas. This is a clever effort to make one appear to be the converse of the other - but they're not because of the obvious difference between shall and may.

§25933(e): This section speaks of an employee's desires. But §25931(c) has already established need as the underlying criteria. Now which it? Needs-desires-rights? What about the smoker's desires and rights. Has he none?

§25934: Chances are that the blanks will be filled in with unrealistic, understated, self-serving assertions as to cost. But there needs to be a consideration of the cost of sign placement and maintenance as well. Another example of "legislate now, pay later."

§25936: These violation provisions are pure "big brotherism," and represent the worst use of law enforcement resources. As a result, non-enforcement will again result, as it has elsewhere.

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Source: https://www.industrydocuments.ucsf.edu/docs/frwj0000

§25937: Here again there is lack of consistency between assertion of rights and needs.

§25940: This section will allow still another government agency to establish the actual rules and regulations. Those rules and regulations could represent a substantial departure from the intent of the initiative.

We hope these comments will be of assistance.

Regards and Best Wishes,

AJS/pm

Arthur J. Stevens

cc: Messrs. C. H. Judge
J. R. Ave
J. R. Cherry

Horace R. Kornegay, Esq.
Mr. Roger L. Mozingo

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Source: https://www.industrydocuments.ucsf.edu/docs/frwj0000